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EXAMINER

RICHER, AARON M

ART UNIT PAPER NUMBER

2676

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/065,705

Applicant(s)

MCCLANAHAN, CRAIG J.

Examiner

Aaron M. Richer

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-57 is/are rejected.
- 7) ☒ Claim(s) 1-57 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: 2/3/03, 2/23/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

DETAILED ACTION

Claim Objections

1. Claims 1-57 are objected to because of the following informalities: The claims are not numbered. Claims must be numbered uniquely. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-23, 25-28, and 30-57 rejected under 35 U.S.C. 102(e) as being anticipated by Kulczycka (U.S. Publication 2003/0085904).
4. As to claims 1, 30, and 55, Kulczycka discloses a computer based method for creating an electronic image displaying effect paint samples, said method comprising the steps of:

 establishing a paint formula having an effect variable (p. 2, paragraph 0020; "primary component information" about a paint with a variable such as "flake size" is established);

 and generating the electronic image as a function of the paint formula (p. 2, paragraph 0021);

5. As to claims 2 and 31, Kulczycka discloses a method wherein the step of generating the electronic image includes the step of generating an intermediate image having an associated color (fig. 1, elements 140, 145; p. 4, paragraphs 0039-0041; a first image of virtual paint is created before modification and fine-tuning by a user, this reads on an "intermediate image").

6. As to claims 3 and 32, Kulczycka discloses a method including the step of determining the associated color as a function of the paint formula (p. 4, paragraph 0045; paint composition is taken into account when determining color).

7. As to claims 4 and 33, Kulczycka discloses a method including the step of determining the associated color as a function of color values (p. 4, paragraph 0045).

8. As to claims 5 and 34, Kulczycka discloses a method including the step of determining the color values as a function of the paint formula (p. 4, paragraph 0045; paint composition is taken into account when determining color).

9. As to claims 6 and 35, Kulczycka discloses a method including the step of retrieving the color values from a database (p. 4, paragraph 0045; data from a base color table is used).

10. As to claims 7 and 36, Kulczycka discloses a method wherein the step of generating the electronic image includes the step of modifying the intermediate image as a function of the effect variable (p. 4, paragraph 0045; flakes and gloss are effects used to modify an image).

11. As to claims 8 and 37, Kulczycka discloses a method wherein the effect variable includes an associated attribute having an associated property (p. 4-5, paragraph 0050; the reflectivity effect has a flake attribute that can have a property of being fine or medium).
12. As to claims 9 and 38, Kulczycka discloses a method including the step of establishing the associated attribute (p. 4-5, paragraph 0050).
13. As to claims 10 and 39, Kulczycka discloses a method including the step of establishing the associated property (p. 4-5, paragraph 0050).
14. As to claims 11 and 40, Kulczycka discloses a method including the step of establishing the associated property as a function of the associated attribute (p. 4-5, paragraph 0050).
15. As to claims 12 and 41, Kulczycka discloses a method including the step of modifying the intermediate image as a function of the associated attribute (p. 4-5, paragraph 0050).
16. As to claims 13 and 42, Kulczycka discloses a method including the step of modifying the intermediate image as a function of the associated property (p. 4-5, paragraph 0050).
17. As to claims 14 and 43, Kulczycka discloses a method including the step of displaying the electronic image (fig. 4, element 445).
18. As to claims 15 and 44, Kulczycka discloses a method including the step of applying a calibration factor to the color values (p. 4-5, paragraph 0050).

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19. As to claims 16 and 45, Kulczycka discloses a method wherein the effect variable includes a sparkle effect (p. 4-5, paragraph 0050, sparkle is a reflectivity effect).

20. As to claims 17 and 46, Kulczycka discloses a method wherein the effect variable includes an intensity effect (p. 4, paragraph 0045; a color chart with varying hues and saturations is disclosed, intensity is the third color component of a hue/saturation/intensity color space).

21. As to claims 18 and 47, Kulczycka discloses a method wherein the effect variable includes a viewing angle (p. 5, paragraph 0056).

22. As to claims 19 and 48, Kulczycka discloses a method wherein the associated attribute is a quantity (p. 5, paragraph 0054; a quantity of transparency is 50%).

23. As to claims 20 and 49, Kulczycka discloses a method wherein the associated property is size (p. 4-5, paragraph 0050; the size of flakes can be fine or medium).

24. As to claims 21 and 50, Kulczycka discloses a method wherein the associated property is color (p. 4-5, paragraph 0050; spread of flakes modifies the overall color of the image).

25. As to claims 22 and 51, Kulczycka discloses a method wherein the associated property is transparency (p. 5, paragraph 0054).

26. As to claims 23 and 52, Kulczycka discloses a method wherein the displayed electronic image includes a plurality of pixels (p. 5, paragraph 0054; alpha values are assigned to pixels for display).

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27. As to claim 25, Kulczycka discloses a method including the step of establishing the effect variable as a function of the paint formula wherein the effect variable includes a set of particle images (p. 4-5, paragraph 0050, flake images are included and a flake is a paint particle).

28. As to claim 28, representative of claims 26, 27, 53, 54, 56 and 57, Kulczycka discloses a computer based method for creating an electronic image displaying effect paint samples, the method comprising the steps of:

establishing a paint formula having an effect variable (p. 2, paragraph 0020; "primary component information" about a paint with a variable such as "flake size" is established) wherein said effect variable represents a sparkle effect (p. 4-5, paragraph 0050, sparkle is a reflectivity effect), the effect variable includes an associated attribute having an associated property wherein the associated attribute is quantity (p. 5, paragraph 0054; a quantity of transparency is 50%) and the associated property is size (p. 4-5, paragraph 0050; the size of flakes can be fine or medium);

determining color values as a function of the paint formula (p. 4, paragraph 0045; paint composition is taken into account when determining color);

establishing an associated color as a function of the color values (p. 4, paragraph 0045);

generating an intermediate image having the associated color (fig. 1, elements 140, 145; p. 4, paragraphs 0039-0041; a first image of virtual paint is

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created before modification and fine-tuning by a user, this reads on an "intermediate image");

modifying the intermediate image as a function of the effect variable (p. 4-5, paragraph 0050);

applying a calibration factor to the color values (p. 4-5, paragraph 0050);

and displaying the electronic image wherein the displayed electronic image includes a plurality of pixels (fig. 4, element 445; see also p. 5, paragraph 0054; alpha values are assigned to pixels for display).

Claim Rejections - 35 USC § 103

29. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

30. Claims 24 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kulczycka in view of Masuda (U.S. Publication 2003/0048942).

31. As to claim 24, Kulczycka does not disclose a method wherein the electronic image includes a microscopic image of paint samples. Masuda, however, discloses a method of taking a microscopic image of a paint sample and displaying it (p. 2, paragraph 0023). The motivation for this is to identify a brilliant material in a paint color so it can be reproduced (p. 1, paragraph 0010-0012). It would have been obvious to one skilled in the art to modify Kulczycka

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to display a microscopic image of paint samples in order to identify material in paint so it can be reproduced as taught by Masuda.

32. As to claim 29, Kulczycka discloses a method for creating an electronic image displaying effect paint samples, said method comprising the steps of:

establishing a paint formula having an effect variable (p. 2, paragraph 0020; "primary component information" about a paint with a variable such as "flake size" is established);

establishing a set of particle images associated with each effect variable as a function of the paint formula (p. 4-5, paragraph 0050, flake images are included and a flake is a paint particle);

modifying the particle image as a function of the paint formula (p. 4-5, paragraph 0050; flakes are modified to be fine, medium, coarse, or pearl-like);

generating an intermediate image as a function of the modified particle image (p. 5, paragraph 0051);

and displaying the electronic image (p. 5, paragraph 0051).

Kulczycka does not generating an electronic image as a function of the paint formula wherein the electronic image includes a microscopic image.

Masuda, however, discloses a method of taking a microscopic image of a paint sample and displaying it (p. 2, paragraph 0023). The motivation for this is to identify a brilliant material in a paint color so it can be reproduced (p. 1, paragraph 0010-0012). It would have been obvious to one skilled in the art to modify Kulczycka to display a microscopic image of paint samples in order to identify material in paint so it can be reproduced as taught by Masuda.

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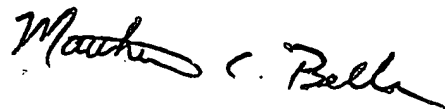
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Richer whose telephone number is (571) 272-7790. The examiner can normally be reached on weekdays from 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew Bella can be reached on (571) 272-7778. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AMR
7/22/05



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